



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

OCT 02 2012

City of Lowell
Attn: Ms. Sarah Brown, Environmental Officer
Department of Planning and Development
JFK Civic Center
50 Arcand Drive
Lowell, Massachusetts 01852

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)
Former Appleton Mill, Parcel 9
Lowell, Massachusetts
MassDEP RTN: 3-29781

Dear Ms. Brown:

This is in response to the Notification¹ by the City of Lowell (the City) for approval of a PCB cleanup and disposal plan to address PCB-contaminated fill material located on a portion of the property previously known as 307 Jackson Street and currently identified as Parcel 9, 239.1 Jackson Street (the Site) in Lowell, Massachusetts. The Site contains PCB-contaminated soils that exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a).

In its Notification, the City is proposing to remove the PCB-contaminated fill with greater than or equal to (\geq) 10 parts per million ("ppm", located at approximately 82 feet to 73 feet NGVD 1929) and to dispose of this fill as a \geq 50 ppm PCB waste at a TSCA-permitted landfill in accordance with § 761.61(a)(5)(i)(B)(2)(iii). The excavation area will be backfilled to grade and a deed restriction will be recorded to identify the Site as a *low occupancy area* as required under § 761.61(a)(8). If a higher end-use is designated in the future, the City will comply with § 761.61(a), which may include construction of a compliant cap under § 761.61(a)(7).

¹

Information was submitted by Watermark Environmental on behalf of the City of Lowell to satisfy the notification requirement under 40 CFR §§ 761.61(a)(3) and (c). Information was provided dated August 8, 2011 (Notification and Certification of Self-Implementing Cleanup and Disposal Plan for PCB Remediation Waste); May 17, 2012 (Notification and Certification of Self-Implementing Cleanup and Disposal Plan for PCB Remediation Waste, Revision 1); September 25, 2012 (email extraction method dates); and, September 28, 2012 (email clarification on NGVD datum). These submissions will be referred to as the "Notification."

With exception of the sidewall verification sampling, the PCB cleanup and disposal plan detailed in the Notification is consistent with the requirements for cleanup and disposal of *PCB remediation waste* under § 761.61(a). Based on the characterization data and the proposed removal plan, EPA has determined that the alternative verification sampling is reasonable and will not create an unreasonable risk to public health or the environment. EPA applies this unreasonable risk standard in accordance with the PCB regulations at 40 CFR § 761.61(c), and the Toxic Substances Control Act, at 15 USC § 2605(e).

The City may proceed with its PCB cleanup in accordance with 40 CFR §§ 761.61(a) and (c); its Notification; and this Approval, subject to the conditions of Attachment 1.

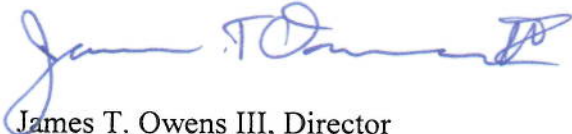
Please be aware that this Approval does not release the City from the cleanup requirements related to other [non-PCB] contaminants, including any requirements under the Massachusetts Department of Environmental Protection (MassDEP) regulations and the Massachusetts Contingency Plan.

Questions and correspondence on this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: OSRR07-2
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in blue ink, appearing to read "James T. Owens III", with a stylized flourish at the end.

James T. Owens III, Director
Office of Site Remediation & Restoration

cc: O. Westphalen, Watermark
A. Peterson, EPA
MassDEP NERO RTN: 3-29781
File

Attachment 1: Approval Conditions

ATTACHMENT 1:

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS
CITY OF LOWELL – FORMER APPLETON MILL COMPLEX
239.1 JACKSON STREET - PARCEL 9 (“the Site”)
LOWELL, MASSACHUSETTS**

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Notification² and located at the Site. Specifically, this Approval addresses PCB-contaminated fill located on Parcel 9.
2. The City of Lowell (the City) shall conduct on-site activities in accordance with the conditions of this Approval and the Notification.
3. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. The City must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, the City shall contact EPA within twenty-four (24) hours for direction on sampling and cleanup requirements.
6. The City is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time the City has or receives information indicating that the City or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within twenty-four (24) hours of having or receiving the information.

² Information was submitted by Watermark Environmental on behalf of the City of Lowell to satisfy the notification requirement under 40 CFR §§ 761.61(a)(3) and (c). Information was provided dated August 8, 2011 (Notification and Certification of Self-Implementing Cleanup and Disposal Plan for PCB Remediation Waste); May 17, 2012 (Notification and Certification of Self-Implementing Cleanup and Disposal Plan for PCB Remediation Waste, Revision 1); September 25, 2012 (email extraction method dates); and, September 28, 2012 (email clarification on NGVD datum). These submissions will be referred to as the “Notification.”

7. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release the City from compliance with any applicable requirements of federal, state or local law; or 3) release the City from liability for, or otherwise resolve, any violations of federal, state or local law.
8. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

NOTIFICATION AND CERTIFICATION CONDITIONS

9. This Approval may be revoked if the EPA does not receive written notification from the City of its acceptance of the conditions of this Approval within 10 business days of receipt of this Approval.
10. The City shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, the City shall submit the following:
 - a. a certification signed by its selected contractor(s), stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
 - b. a contractor work plan, prepared and submitted by the selected contractor(s) describing the air monitoring that will be employed during soil removal activities. This work plan should also include information on how and where wastes will be stored and disposed of, and on how field equipment will be decontaminated. The City and its contractor(s) shall incorporate any changes EPA deems necessary to comply with the conditions of this Approval and the PCB Regulations at 40 CFR Part 761; and,
 - c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the extraction and analytical method requirements and quality assurance requirements specified in the Notification and in this Approval.

REMEDIAL AND DISPOSAL CONDITIONS

12. The cleanup level for bulk *PCB remediation wastes* (i.e., soils) shall be less than or equal to (\leq) 10 parts per million (ppm). Samples shall be collected on a bulk basis (i.e., mg/kg) and reported on a dry-weight basis. Verification sampling shall comply with 40 CFR Part 761, Subpart O; samples shall be collected from the excavation bottom as described in the Notification.

13. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 and chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
 - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g).
 - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
 - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

INSPECTION, MONITORING, MODIFICATION AND REVOCATION CONDITIONS

15. The City shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by City to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
16. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
18. Any misrepresentation or omission of any material fact in the Notification or in any future records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

RECORDKEEPING AND REPORTING CONDITIONS

19. The City shall prepare and maintain all records and documents required by 40 CFR Part 761, including, but not limited to, the records required by Subparts J and K. The City shall maintain a written record of the cleanup and the analytical sampling for activities conducted under this Approval. All records shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.
20. Within 60 days of completion of the cleanup activities described in the Notification and authorized by this Approval, and as required under § 761.61(a)(8)(i)(B), the City shall submit to EPA a certification, signed by a City approving official, that it has recorded the notation on the deed as required under § 761.61(a)(8)(i)(A). A copy of the notation on the deed must also be submitted.
21. The City shall submit a Final Completion Report (Report) to the EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this Report shall include: a discussion of the project activities; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; the size of the PCB-contaminated area; and, copies of manifests and certificates of disposal issued by the disposer. The Report shall also include a certification signed by a City official verifying that the authorized activities have been implemented in accordance with this Approval and the Notification.
22. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: OSRR07-2
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527
23. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

END OF ATTACHMENT 1